
BILL REQUEST - ECOLOGY DRAFT FOR CODE REVISER'S OFFICE

BILL REQ. #: PRELIMINARY ROUGH DRAFT [10/15/10]

BRIEF DESCRIPTION: Regarding the management of water resources.

1 the state's natural snowpack and groundwater resources to recharge
2 and sustain stream base flows and lake levels. Together with
3 continued population growth, this will intensify competition for
4 water among municipal, industrial, agricultural, and instream
5 water use in the state. The legislature therefore intends to
6 promote active water management that protects and restores
7 sustainable water supplies for our communities, farms, and
8 ecosystems. Active water management means making sure we are
9 using current water supplies efficiently, collecting data and
10 assessing water availability, investing in development of new
11 water supplies, and working with local partners to implement
12 watershed plans and actions.

13
14 (2) The legislature finds that an adequate scientific
15 foundation is necessary to support sound water resources
16 management by characterizing how much water a water source has now
17 and will have in the future, as well as how much water is being
18 used now and will be needed in the future under projected climatic
19 and development trends. The legislature therefore intends to
20 promote water budgeting as a foundational and science-based
21 extension of current watershed planning and implementation efforts
22 to project future water supply needs and availability, to develop
23 surface and groundwater supply solutions, and to inform
24 coordinated water supply and land use decisions that satisfy the
25 economic and environmental water needs of present and future
26 generations.

27
28 (3) The legislature finds that certainty and clarity in water
29 rights administration is crucial for the economic and
30 environmental vitality of the state, but that current statutory
31 authorities for managing water create unnecessary administrative
32 costs and inefficiencies and impede effective conservation of

1 scarce water resources. The legislature therefore intends to
2 reform current statutory provisions to promote administrative
3 efficiencies and active water management that will be needed to
4 help the state and its water users prepare for coming water
5 resource challenges due to population growth and climate change.

6
7 (4) The legislature finds that processing water rights
8 involves conferring a significant private right to use a public
9 resource upon applicants and that the beneficiaries of this
10 process should pay for the costs of processing their
11 applications. The legislature also finds that the regulatory
12 system created to manage water provides significant services to
13 water right holders. The legislature therefore intends to
14 create a funding mechanism through which water right holders, as
15 beneficiaries, financially support such water management
16 services.

17 18 **PART 2**

19 **MITIGATION AND CONSERVATION**

20 **Sec. 201.** RCW 90.03.255 and 1997 c 360 s 2 are each amended
21 to read as follows:

22
23 (1) The department shall, when evaluating an application for a
24 water right, transfer, or change filed pursuant to RCW 90.03.250
25 or 90.03.380 that includes provision for mitigation of impacts
26 through new or existing infrastructure, operations, or
27 institutional arrangements~~any water impoundment or other resource~~
28 ~~management technique~~, take into consideration the benefits and
29 costs, including environmental effects, of any mitigation

1 ~~technique~~~~water impoundment or other resource management technique~~
2 that is included as a component of the application. The
3 department's consideration shall extend to any increased water
4 supply that results from a mitigation technique, including but not
5 limited to any recharge of groundwater that may occur or water
6 banking activity under chapters 90.42 and 90.38, as a means of
7 making water available or otherwise offsetting the impact of the
8 diversion of surface water proposed in the application for the
9 water right, transfer, or change. ~~Provision for an impoundment or~~
10 ~~other resource management technique~~mitigation of impacts in an
11 application shall be made solely at the discretion of the
12 applicant and shall not otherwise be made by the department as a
13 condition for approving an application that does not include such
14 provision, unless the department has first adopted a rule closing
15 the source to new appropriations or a rule establishing instream
16 flows that apply to the source. If the department has adopted
17 such closure or instream flow rules and it has published guidance
18 as provided in subsection (2) of this section, then the department
19 may reject an application for lack of completeness if it is not
20 accompanied by a mitigation plan.

21
22 (2) The department may publish guidance on its web site to
23 inform applicants of mitigation strategies, techniques, and
24 institutional arrangements that where feasible, would ensure that,
25 if the application were granted, the effects of the new diversion
26 or withdrawal would not impair any senior water right or adopted
27 instream flow, or negatively affect any closed water source.

28
29 (3) This section does not lessen, enlarge, or modify the
30 rights of any riparian owner, or any existing water right acquired
31 by appropriation or otherwise.

1 **Sec. 202.** RCW 90.44.055 and 1997 c 360 s 3 are each amended
2 to read as follows:

3
4 (1) The department shall, when evaluating an application for a
5 water right or an amendment filed pursuant to RCW 90.44.050 or
6 90.44.100 that includes provision for mitigation of impacts
7 through new or existing infrastructure, operations, or
8 institutional arrangements~~any water impoundment or other resource~~
9 ~~management technique~~; take into consideration the benefits and
10 costs, including environmental effects, of any mitigation
11 technique ~~water impoundment or other resource management technique~~
12 that is included as a component of the application. The
13 department's consideration shall extend to any increased water
14 supply that results from the impoundment or other resource
15 management technique, including but not limited to any recharge of
16 groundwater that may occur or water banking activity under
17 chapters 90.42 and 90.38 RCW, as a means of making water available
18 or otherwise offsetting the impact of the withdrawal of
19 groundwater proposed in the application for the water right or
20 amendment in the same water resource inventory area. Provision
21 for mitigation of impacts ~~an impoundment or other resource~~
22 ~~management technique~~ in an application shall be made solely at the
23 discretion of the applicant and shall not be made by the
24 department as a condition for approving an application that does
25 not include such provision, unless the department has first
26 adopted a rule closing the source to new appropriations or has
27 first adopted rules establishing instream flows that apply to the
28 source. If the department has adopted such closure or instream
29 flow rules and it has published guidance as provided in subsection
30 (2) of this section, then the department may reject an application

1 for lack of completeness if it is not accompanied by a mitigation
2 plan.

3
4 (2) The department may publish guidance on its web site to
5 inform applicants of mitigation strategies, techniques, and
6 institutional arrangements that where feasible, would ensure that,
7 if the application were granted, the effects of the new diversion
8 or withdrawal would not impair any senior water right or adopted
9 instream flow, or negatively affect any closed water source.

10
11 (3) This section does not lessen, enlarge, or modify the
12 rights of any riparian owner, or any existing water right acquired
13 by appropriation or otherwise.

14 **Sec. 203.** RCW 90.44.050 and 2003 c 307 s 1 are each amended
15 to read as follows:

16
17 (1) After June 6, 1945, no withdrawal of public groundwaters
18 of the state shall be begun, nor shall any well or other works for
19 such withdrawal be constructed, unless an application to
20 appropriate such waters has been made to the department and a
21 permit has been granted by it as herein provided: EXCEPT,
22 HOWEVER, That any withdrawal of public groundwaters for stock-
23 watering purposes, or for the watering of a lawn or of a
24 noncommercial garden not exceeding one-half acre in area, or for
25 single or group domestic uses in an amount not exceeding five
26 thousand gallons a day, or as provided in RCW 90.44.052, or for an
27 industrial purpose in an amount not exceeding five thousand
28 gallons a day, is and shall be exempt from the provisions of this
29 section, but, to the extent that it is regularly used
30 beneficially, shall be entitled to a right equal to that

1 established by a permit issued under the provisions of this
2 chapter: PROVIDED, HOWEVER, That the department from time to time
3 may require the person or agency making any such small withdrawal
4 to furnish information as to the means for and the quantity of
5 that withdrawal: PROVIDED, FURTHER, That at the option of the
6 party making withdrawals of groundwaters of the state not
7 exceeding five thousand gallons per day, applications under this
8 section or declarations under RCW 90.44.090 may be filed and
9 permits and certificates obtained in the same manner and under the
10 same requirements as is in this chapter provided in the case of
11 withdrawals in excess of five thousand gallons a day.

12
13 (2) The department may by rule establish quantity and acreage
14 limits for new uses of water that are lower than those provided in
15 subsection (1) of this section. The rules, which may include
16 rules adopted under RCW 90.54.050, must be specific to a watershed
17 or aquifer that the department believes is at or close to being
18 fully appropriated and that lower limits on new uses of
19 groundwater need to be imposed in the interest of conservation and
20 stretching the beneficial use of remaining waters as far as
21 possible.

22
23 **PART 3**
24 **REVIEW PROCESS**

25 NEW SECTION. **Sec. 301.** A new section is added to chapter
26 90.03 RCW to read as follows:

27
28 (1) The department may tentatively determine the extent,
29 validity, and priority of respective rights to the use of water

1 for purposes of protecting senior water rights from impairment by
2 junior water rights, or when necessary for effective water
3 management, or when a question arises among competing water users
4 whether any of them is using water in excess of the amount to
5 which the user of the water is lawfully entitled.

6
7 (2) Except as provided in subsection (3) of this section, such
8 a tentative determination shall be binding among the water users
9 whose rights are determined until such time as a partial or final
10 decree is entered in a general adjudication which includes rights
11 to the uses determined by the department pursuant to this section,
12 but shall not be binding on any water user whose rights were not
13 determined by the department. A water master may rely on such
14 determination in dividing, regulating, and controlling the use of
15 water pursuant to section 90.03.070(1).

16
17 (3) Any person aggrieved by department actions under this
18 section may appeal the decision to the pollution control hearings
19 board under RCW 43.21B.

20 NEW SECTION. **Sec. 302.** A new section is added to chapter
21 90.03 RCW to read as follows:

22
23 (1) In making a determination of the extent and validity of a
24 water right under chapters 90.03, 90.14, 90.38, 90.42 and 90.44
25 RCW, the department shall only evaluate the exercise of the water
26 right during the most recent thirty-year period prior to the
27 commencement of the department's determination at issue.

28
29 (2) For the purposes of appeal, department determinations
30 under this section do not alone constitute an agency action.

1 Aggrieved parties must appeal the primary action of the department
2 under which the evaluation under this section applies.

3
4 (3) Notwithstanding subsection (1) under this section, water
5 right determinations during a general adjudication, under RCW
6 90.03.110 through RCW 90.03.245, shall not be limited to a thirty-
7 year period of review. During a general adjudication, the
8 department and the superior court may consider the entire
9 historical record of the exercise of a water right in making a
10 determination of extent and validity.

11
12 **PART 4**
13 **RELINQUISHMENT**

14 **Sec. 401.** RCW 90.14.140 and 2009 c 183 s 14 are each amended
15 to read as follows:

16
17 (1) ~~((For the purposes of RCW 90.14.130 through 90.14.180,~~
18 ~~"sufficient cause" shall be defined as the nonuse of all or a~~
19 ~~portion of the water by the owner of a water right for a period of~~
20 ~~five or more consecutive years where such nonuse occurs as a~~
21 ~~result of:~~

22 ~~—— (a) Drought, or other unavailability of water;~~

23 ~~—— (b) Active service in the armed forces of the United States~~
24 ~~during military crisis;~~

25 ~~—— (c) Nonvoluntary service in the armed forces of the United~~
26 ~~States;~~

27 ~~—— (d) The operation of legal proceedings;~~

28 ~~—— (e) Federal or state agency leases of or options to purchase~~
29 ~~lands or water rights which preclude or reduce the use of the~~

1 ~~right by the owner of the water right;~~

2 ~~—— (f) Federal laws imposing land or water use restrictions~~
3 ~~either directly or through the voluntary enrollment of a landowner~~
4 ~~in a federal program implementing those laws, or acreage~~
5 ~~limitations, or production quotas;~~

6 ~~—— (g) Temporarily reduced water need for irrigation use where~~
7 ~~such reduction is due to varying weather conditions, including but~~
8 ~~not limited to precipitation and temperature, that warranted the~~
9 ~~reduction in water use, so long as the water user's diversion and~~
10 ~~delivery facilities are maintained in good operating condition~~
11 ~~consistent with beneficial use of the full amount of the water~~
12 ~~right;~~

13 ~~—— (h) Temporarily reduced diversions or withdrawals of~~
14 ~~irrigation water directly resulting from the provisions of a~~
15 ~~contract or similar agreement in which a supplier of electricity~~
16 ~~buys back electricity from the water right holder and the~~
17 ~~electricity is needed for the diversion or withdrawal or for the~~
18 ~~use of the water diverted or withdrawn for irrigation purposes;~~

19 ~~—— (i) Water conservation measures implemented under the Yakima~~
20 ~~river basin water enhancement project, so long as the conserved~~
21 ~~water is reallocated in accordance with the provisions of P.L.~~
22 ~~103-434;~~

23 ~~—— (j) Reliance by an irrigation water user on the transitory~~
24 ~~presence of return flows in lieu of diversion or withdrawal of~~
25 ~~water from the primary source of supply, if such return flows are~~
26 ~~measured or reliably estimated using a scientific methodology~~
27 ~~generally accepted as reliable within the scientific community; or~~

28 ~~—— (k) The reduced use of irrigation water resulting from crop~~
29 ~~rotation. For purposes of this subsection, crop rotation means~~
30 ~~the temporary change in the type of crops grown resulting from the~~
31 ~~exercise of generally recognized sound farming practices. Unused~~

1 ~~water resulting from crop rotation will not be relinquished if the~~
2 ~~remaining portion of the water continues to be beneficially used.~~

3 ~~——(2))~~ Beneficial use is the basis, the measure and the limit
4 of all rights to the use of water in this state. Notwithstanding
5 any other provisions of RCW 90.14.130 through 90.14.180, there
6 shall be no relinquishment of any water right:

7 (a) If such right is claimed for power development purposes
8 under chapter 90.16 RCW and annual license fees are paid in
9 accordance with chapter 90.16 RCW;

10 (b) If such right is used for a standby or reserve water
11 supply to be used in time of drought or other low flow period so
12 long as withdrawal or diversion facilities are maintained in good
13 operating condition for the use of such reserve or standby water
14 supply;

15 (c) If such right is claimed for a determined future
16 development to take place either within fifteen years of July 1,
17 1967, or the most recent beneficial use of the water right,
18 whichever date is later;

19 (d) If such right is claimed for municipal water supply
20 purposes under chapter 90.03 RCW;

21 (e) If such waters are not subject to appropriation under the
22 applicable provisions of RCW 90.40.030;

23 (f) If such right or portion of the right is leased to another
24 person for use on land other than the land to which the right is
25 appurtenant as long as the lessee makes beneficial use of the
26 right in accordance with this chapter and a transfer or change of
27 the right has been approved by the department in accordance with
28 RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100;

29 (g) If federal or state agency leases or options to purchase
30 lands or water rights preclude or reduce the use of the right by
31 the owner of the water right;

1 (h) If federal laws impose land or water use restrictions
2 either directly or through the voluntary enrollment of a landowner
3 in a federal program implementing those laws, or acreage
4 limitations, or production quotas;

5 (i) If temporarily reduced water need for irrigation use is
6 due to varying weather conditions, including but not limited to
7 precipitation and temperature, that warranted the reduction in
8 water use, so long as the water user's diversion and delivery
9 facilities are maintained in good operating condition consistent
10 with beneficial use of the full amount of the water right;

11 (j) If temporarily reduced diversions or withdrawals of
12 irrigation water directly result from the provisions of a contract
13 or similar agreement in which a supplier of electricity buys back
14 electricity from the water right holder and the electricity is
15 needed for the diversion or withdrawal or for the use of the water
16 diverted or withdrawn for irrigation purposes;

17 (k) If an irrigation water user implements water conservation
18 measures under the Yakima river basin water enhancement project,
19 as long as the conserved water is reallocated in accordance with
20 the provisions of P.L. 103-434;

21 (l) If an irrigation water user relies on the transitory
22 presence of return flows in lieu of diversion or withdrawal of
23 water from the primary source of supply, if such return flows are
24 measured or reliably estimated using a scientific methodology
25 generally accepted as reliable within the scientific community;

26 (m) ~~((g))~~ If such a right or portion of the right is
27 authorized for a purpose that is satisfied by the use of
28 agricultural industrial process water as authorized under RCW
29 90.46.150;

30 ~~((h))~~ (n) If such right is a trust water right under chapter
31 90.38 or 90.42 RCW;

1 (~~((i))~~) (o) If such a right is involved in an approved local
2 water plan created under RCW 90.92.090, provided the right is
3 subject to an agreement not to divert under RCW 90.92.050, or
4 provided the right is banked under RCW 90.92.070;

5 (p) If such a right is a perfected and developed water right
6 used for an agricultural irrigation purpose and so long as:

7 (i) The water user's diversion and delivery facilities are
8 maintained in good operating condition consistent with the full
9 beneficial use of the right,

10 (ii) Each part of the authorized acreage is irrigated for
11 beneficial use at least once every ten years and is non-wasteful,
12 and

13 (iii) The actual use of water on a unit basis is less than one
14 hundred ten percent the annual crop requirement for the most water
15 intensive crop normally grown in the area.

16 (q) If nonuse occurs as a result of reduced use of irrigation
17 water resulting from crop rotation. For purposes of this
18 subsection, crop rotation means the temporary change in the type
19 of crops grown resulting from the exercise of generally recognized
20 sound farming practices. Unused water resulting from crop
21 rotation will not be relinquished if the remaining portion of the
22 water continues to be beneficially used;

23 (r) If nonuse occurs as a result of the unavailability of
24 water;

25 (s) If nonuse occurs as a result of active service in the
26 armed forces of the United States during military crisis;

27 (t) If nonuse occurs as a result of nonvoluntary service in
28 the armed forces of the United States; or

29 (u) If nonuse occurs as a result of the operation of legal
30 proceedings.

1 ~~((3))~~ (2) In adding provisions to this section by chapter
2 237, Laws of 2001, the legislature does not intend to imply
3 legislative approval or disapproval of any existing administrative
4 policy regarding, or any existing administrative or judicial
5 interpretation of, the provisions of this section not expressly
6 added or revised.

7 **Sec. 402.** RCW 90.14.140 and 2001 c 240 s 1, 2001 c 237 s 27,
8 and 2001 c 69 s 5 are each reenacted and amended to read as
9 follows:

10
11 ~~(1) ((For the purposes of RCW 90.14.130 through 90.14.180,~~
12 ~~"sufficient cause" shall be defined as the nonuse of all or a~~
13 ~~portion of the water by the owner of a water right for a period of~~
14 ~~five or more consecutive years where such nonuse occurs as a~~
15 ~~result of:~~

16 ~~—— (a) Drought, or other unavailability of water;~~

17 ~~—— (b) Active service in the armed forces of the United States~~
18 ~~during military crisis;~~

19 ~~—— (c) Nonvoluntary service in the armed forces of the United~~
20 ~~States;~~

21 ~~—— (d) The operation of legal proceedings;~~

22 ~~—— (e) Federal or state agency leases of or options to purchase~~
23 ~~lands or water rights which preclude or reduce the use of the~~
24 ~~right by the owner of the water right;~~

25 ~~—— (f) Federal laws imposing land or water use restrictions~~
26 ~~either directly or through the voluntary enrollment of a landowner~~
27 ~~in a federal program implementing those laws, or acreage~~
28 ~~limitations, or production quotas;~~

29 ~~—— (g) Temporarily reduced water need for irrigation use where~~
30 ~~such reduction is due to varying weather conditions, including but~~

1 ~~not limited to precipitation and temperature, that warranted the~~
2 ~~reduction in water use, so long as the water user's diversion and~~
3 ~~delivery facilities are maintained in good operating condition~~
4 ~~consistent with beneficial use of the full amount of the water~~
5 ~~right;~~

6 ~~—— (h) Temporarily reduced diversions or withdrawals of~~
7 ~~irrigation water directly resulting from the provisions of a~~
8 ~~contract or similar agreement in which a supplier of electricity~~
9 ~~buys back electricity from the water right holder and the~~
10 ~~electricity is needed for the diversion or withdrawal or for the~~
11 ~~use of the water diverted or withdrawn for irrigation purposes;~~

12 ~~—— (i) Water conservation measures implemented under the Yakima~~
13 ~~river basin water enhancement project, so long as the conserved~~
14 ~~water is reallocated in accordance with the provisions of P.L.~~
15 ~~103-434;~~

16 ~~—— (j) Reliance by an irrigation water user on the transitory~~
17 ~~presence of return flows in lieu of diversion or withdrawal of~~
18 ~~water from the primary source of supply, if such return flows are~~
19 ~~measured or reliably estimated using a scientific methodology~~
20 ~~generally accepted as reliable within the scientific community; or~~

21 ~~—— (k) The reduced use of irrigation water resulting from crop~~
22 ~~rotation. For purposes of this subsection, crop rotation means~~
23 ~~the temporary change in the type of crops grown resulting from the~~
24 ~~exercise of generally recognized sound farming practices. Unused~~
25 ~~water resulting from crop rotation will not be relinquished if the~~
26 ~~remaining portion of the water continues to be beneficially used.~~

27 ~~—— (2)) Beneficial use is the basis, the measure and the limit~~
28 ~~of all rights to the use of water in this state. Notwithstanding~~
29 ~~any other provisions of RCW 90.14.130 through 90.14.180, there~~
30 ~~shall be no relinquishment of any water right:~~

1 (a) If such right is claimed for power development purposes
2 under chapter 90.16 RCW and annual license fees are paid in
3 accordance with chapter 90.16 RCW;

4 (b) If such right is used for a standby or reserve water
5 supply to be used in time of drought or other low flow period so
6 long as withdrawal or diversion facilities are maintained in good
7 operating condition for the use of such reserve or standby water
8 supply;

9 (c) If such right is claimed for a determined future
10 development to take place either within fifteen years of July 1,
11 1967, or the most recent beneficial use of the water right,
12 whichever date is later;

13 (d) If such right is claimed for municipal water supply
14 purposes under chapter 90.03 RCW;

15 (e) If such waters are not subject to appropriation under the
16 applicable provisions of RCW 90.40.030;

17 (f) If such right or portion of the right is leased to another
18 person for use on land other than the land to which the right is
19 appurtenant as long as the lessee makes beneficial use of the
20 right in accordance with this chapter and a transfer or change of
21 the right has been approved by the department in accordance with
22 RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100;

23 (g) If federal or state agency leases or options to purchase
24 lands or water rights preclude or reduce the use of the right by
25 the owner of the water right;

26 (h) If federal laws impose land or water use restrictions
27 either directly or through the voluntary enrollment of a landowner
28 in a federal program implementing those laws, or acreage
29 limitations, or production quotas;

30 (i) If temporarily reduced water need for irrigation use is
31 due to varying weather conditions, including but not limited to

precipitation and temperature, that warranted the reduction in water use, so long as the water user's diversion and delivery facilities are maintained in good operating condition consistent with beneficial use of the full amount of the water right;

(j) If temporarily reduced diversions or withdrawals of irrigation water directly result from the provisions of a contract or similar agreement in which a supplier of electricity buys back electricity from the water right holder and the electricity is needed for the diversion or withdrawal or for the use of the water diverted or withdrawn for irrigation purposes;

(k) If an irrigation water user implements water conservation measures under the Yakima river basin water enhancement project, as long as the conserved water is reallocated in accordance with the provisions of P.L. 103-434;

(l) If an irrigation water user relies on the transitory presence of return flows in lieu of diversion or withdrawal of water from the primary source of supply, if such return flows are measured or reliably estimated using a scientific methodology generally accepted as reliable within the scientific community;

(m) ~~((g))~~ If such a right or portion of the right is authorized for a purpose that is satisfied by the use of agricultural industrial process water as authorized under RCW 90.46.150;

~~((h))~~ (n) If such right is a trust water right under chapter 90.38 or 90.42 RCW;

(o) If such a right is a perfected and developed water right used for an agricultural irrigation purpose and so long as:

(i) The water user's diversion and delivery facilities are maintained in good operating condition consistent with the full beneficial use of the right,

1 (ii) Each part of the authorized acreage is irrigated for
2 beneficial use at least once every ten years and is non-wasteful,
3 and

4 (iii) The actual use of water on a unit basis is less than one
5 hundred ten percent the annual crop requirement for the most water
6 intensive crop normally grown in the area.

7 (p) If nonuse occurs as a result of reduced use of irrigation
8 water resulting from crop rotation. For purposes of this
9 subsection, crop rotation means the temporary change in the type
10 of crops grown resulting from the exercise of generally recognized
11 sound farming practices. Unused water resulting from crop
12 rotation will not be relinquished if the remaining portion of the
13 water continues to be beneficially used;

14 (q) If nonuse occurs as a result of the unavailability of
15 water;

16 (r) If nonuse occurs as a result of active service in the
17 armed forces of the United States during military crisis;

18 (s) If nonuse occurs as a result of nonvoluntary service in
19 the armed forces of the United States; or

20 (t) If nonuse occurs as a result of the operation of legal
21 proceedings.

22
23 (~~((3))~~) (2) In adding provisions to this section by chapter
24 237, Laws of 2001, the legislature does not intend to imply
25 legislative approval or disapproval of any existing administrative
26 policy regarding, or any existing administrative or judicial
27 interpretation of, the provisions of this section not expressly
28 added or revised.

1 **Sec. 403.** RCW 90.14.160 and 1981 c 291 s 1 are each amended
2 to read as follows:

3
4 (1) Any person entitled to divert or withdraw waters of the
5 state through any appropriation authorized by enactments of the
6 legislature prior to enactment of chapter 117, Laws of 1917, or by
7 custom, or by general adjudication, who abandons the same, or who
8 voluntarily fails, without sufficient ~~cause~~excuse under RCW
9 90.14.140, to beneficially use all or any part of said right to
10 divert or withdraw for a period as described under subsection (2)
11 of this section~~any period of ((five)) successive years after July~~
12 ~~1, 1967~~, shall relinquish such right or portion thereof, and said
13 right or portion thereof shall revert to the state, and the waters
14 affected by said right shall become available for appropriation in
15 accordance with RCW 90.03.250.

16
17 (2) Relinquishment shall result upon failure to beneficially
18 use all or any part of a water right for the number of successive
19 years and time period as follows:

20 (a) Five successive years, for failure of use after July 1,
21 1967 and before the effective date of this act; and

22 (b) Ten successive years, for a failure of use upon and after
23 the effective date of this act.

24 **Sec. 404.** RCW 90.14.170 and 1967 c 233 s 17 are each amended
25 to read as follows:

26
27 (1) Any person entitled to divert or withdraw waters of the
28 state by virtue of his ownership of land abutting a stream, lake,
29 or watercourse, who abandons the same, or who voluntarily fails,
30 without sufficient ~~cause~~excuse under RCW 90.14.140, to

1 beneficially use all or any part of said right to withdraw or
2 divert said water for a period as described under subsection (2)
3 of this section~~any period of ((five)) successive years after July~~
4 ~~1, 1967,~~ shall relinquish such right or portion thereof, and such
5 right or portion thereof shall revert to the state, and the waters
6 affected by said right shall become available for appropriation in
7 accordance with the provisions of RCW 90.03.250.

8
9 (2) Relinquishment shall result upon failure to beneficially
10 use all or any part of a water right for the number of successive
11 years and time period as follows:

12 (a) Five successive years, for failure of use after July 1,
13 1967 and before the effective date of this act; and

14 (b) Ten successive years, for a failure of use upon and after
15 the effective date of this act.
16

17 **Sec. 405.** RCW 90.14.180 and 1987 c 109 s 101 are each amended
18 to read as follows:

19 Any person hereafter entitled to divert or withdraw waters of
20 the state through an appropriation authorized under RCW 90.03.330,
21 90.44.080, or 90.44.090 who abandons the same, or who voluntarily
22 fails, without sufficient ~~cause~~excuse under RCW 90.14.140, to
23 beneficially use all or any part of said right to withdraw for any
24 period of ~~((five))~~ ten successive years shall relinquish such
25 right or portion thereof, and such right or portion thereof shall
26 revert to the state, and the waters affected by said right shall
27 become available for appropriation in accordance with RCW
28 90.03.250. All certificates hereafter issued by the department of
29 ecology pursuant to RCW 90.03.330 shall expressly incorporate this
30 section by reference.

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Sec. 406. RCW 90.03.380 and 2009 c 183 s 15 are each amended to read as follows:

(1) The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used: PROVIDED, HOWEVER, That the right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right. For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right. Before any transfer of such right to use water or change of the point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the department, and the application shall not be granted until notice of the application is published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without

1 injury or detriment to existing rights, the department shall issue
2 to the applicant an authorization to implement the change
3 together with any conditions that may be required to avoid injury
4 or detriment to another water right. Upon the applicant's showing
5 that the change or transfer has been implemented, the department
6 shall issue a certificate in duplicate granting the right for such
7 transfer or for such change of point of diversion or of use. The
8 certificate so issued shall be filed and be made a record with the
9 department and the duplicate certificate issued to the applicant
10 may be filed with the county auditor in like manner and with the
11 same effect as provided in the original certificate or permit to
12 divert water. The time period that the water right was banked
13 under RCW 90.92.070, in an approved local water plan created under
14 RCW 90.92.090, or the water right was subject to an agreement to
15 not divert under RCW 90.92.050 will not be included in the most
16 recent ~~five~~ten-year period of continuous beneficial use for the
17 purpose of determining the annual consumptive quantity under this
18 section. If the water right has not been used during the previous
19 ~~five~~ten years but the nonuse of which qualifies for one or more
20 of the statutory ~~good causes or~~ exceptions to relinquishment in
21 RCW 90.14.140 and 90.44.520, the period of nonuse is not included
22 in the most recent ~~five~~ten-year period of continuous beneficial
23 use for purposes of determining the annual consumptive quantity of
24 water under this section.

25
26 (2) The department's determination of the extent and validity
27 of water rights under this section shall be consistent with
28 section . . . of this act.

29
30 (3) The department may establish a reasonable schedule for
31 completion of necessary work to effect a change in the purpose,

1 place, or manner of use or for the construction of works to effect
2 an authorized change of point of diversion or withdrawal. Nonuse
3 during such a reasonable schedule is not subject to relinquishment
4 provided the project is pursued in accordance with RCW 90.03.320.
5 Failure to complete all or a portion of the change results in
6 relinquishment of the right unless otherwise excused under RCW
7 90.14.140.

8
9 (4) If an application for change proposes to transfer water
10 rights from one irrigation district to another, the department
11 shall, before publication of notice, receive concurrence from each
12 of the irrigation districts that such transfer or change will not
13 adversely affect the ability to deliver water to other landowners
14 or impair the financial integrity of either of the districts.

15
16 ~~((4))~~ (5) A change in place of use by an individual water
17 user or users of water provided by an irrigation district need
18 only receive approval for the change from the board of directors
19 of the district if the use of water continues within the
20 irrigation district, and when water is provided by an irrigation
21 entity that is a member of a board of joint control created under
22 chapter 87.80 RCW, approval need only be received from the board
23 of joint control if the use of water continues within the area of
24 jurisdiction of the joint board and the change can be made without
25 detriment or injury to existing rights.

26
27 ~~((4))~~ (6) This section shall not apply to trust water rights
28 acquired by the state through the funding of water conservation
29 projects under chapter 90.38 RCW or RCW 90.42.010 through
30 90.42.070.

1 (~~((5))~~) (7)(a) Pending applications for new water rights are
2 not entitled to protection from impairment, injury, or detriment
3 when an application relating to an existing surface or ground
4 water right is considered.

5 (b) Applications relating to existing surface or ground water
6 rights may be processed and decisions on them rendered
7 independently of processing and rendering decisions on pending
8 applications for new water rights within the same source of supply
9 without regard to the date of filing of the pending applications
10 for new water rights.

11 (c) Notwithstanding any other existing authority to process
12 applications, including but not limited to the authority to
13 process applications under WAC 173-152-050 as it existed on
14 January 1, 2001, an application relating to an existing surface or
15 ground water right may be processed ahead of a previously filed
16 application relating to an existing right when sufficient
17 information for a decision on the previously filed application is
18 not available and the applicant for the previously filed
19 application is sent written notice that explains what information
20 is not available and informs the applicant that processing of the
21 next application will begin. The previously filed application
22 does not lose its priority date and if the information is provided
23 by the applicant within sixty days, the previously filed
24 application shall be processed at that time. This subsection
25 (~~((5))~~) (7)(c) does not affect any other existing authority to
26 process applications.

27 (d) Nothing in this subsection (~~((5))~~) (6) is intended to stop
28 the processing of applications for new water rights.

29
30 (~~((6))~~) (8) No applicant for a change, transfer, or amendment
31 of a water right may be required to give up any part of the

1 applicant's valid water right or claim to a state agency, the
2 trust water rights program, or to other persons as a condition of
3 processing the application.

4
5 ~~((+7+))~~ (9) In revising the provisions of this section and
6 adding provisions to this section by chapter 237, Laws of 2001,
7 the legislature does not intend to imply legislative approval or
8 disapproval of any existing administrative policy regarding, or
9 any existing administrative or judicial interpretation of, the
10 provisions of this section not expressly added or revised.

11
12 ~~((+8+))~~ (10) The development and use of a small irrigation
13 impoundment, as defined in RCW 90.03.370(8), does not constitute a
14 change or amendment for the purposes of this section. The
15 exemption expressly provided by this subsection shall not be
16 construed as requiring a change or transfer of any existing water
17 right to enable the holder of the right to store water governed by
18 the right.

19
20 ~~((+9+))~~ (11) This section does not apply to a water right
21 involved in an approved local water plan created under RCW
22 90.92.090, a water right that is subject to an agreement not to
23 divert under RCW 90.92.050, or a banked water right under RCW
24 90.92.070.

25 **Sec. 407.** RCW 90.03.380 and 2003 c 329 s 2 are each amended
26 to read as follows:

27
28 (1) The right to the use of water which has been applied to a
29 beneficial use in the state shall be and remain appurtenant to the
30 land or place upon which the same is used: PROVIDED, HOWEVER,

1 That the right may be transferred to another or to others and
2 become appurtenant to any other land or place of use without loss
3 of priority of right theretofore established if such change can be
4 made without detriment or injury to existing rights. The point of
5 diversion of water for beneficial use or the purpose of use may be
6 changed, if such change can be made without detriment or injury to
7 existing rights. A change in the place of use, point of
8 diversion, and/or purpose of use of a water right to enable
9 irrigation of additional acreage or the addition of new uses may
10 be permitted if such change results in no increase in the annual
11 consumptive quantity of water used under the water right. For
12 purposes of this section, "annual consumptive quantity" means the
13 estimated or actual annual amount of water diverted pursuant to
14 the water right, reduced by the estimated annual amount of return
15 flows, averaged over the two years of greatest use within the most
16 recent ~~five~~ten-year period of continuous beneficial use of the
17 water right. Before any transfer of such right to use water or
18 change of the point of diversion of water or change of purpose of
19 use can be made, any person having an interest in the transfer or
20 change, shall file a written application therefor with the
21 department, and the application shall not be granted until notice
22 of the application is published as provided in RCW 90.03.280. If
23 it shall appear that such transfer or such change may be made
24 without injury or detriment to existing rights, the department
25 shall issue to the applicant an authorization to implement the
26 change together with any conditions that may be required to avoid
27 injury or detriment to another water right. Upon the applicant's
28 showing that the change or transfer has been implemented, the
29 department shall issue a certificate in duplicate granting the
30 right for such transfer or for such change of point of diversion
31 or of use. The certificate so issued shall be filed and be made a

1 record with the department and the duplicate certificate issued to
2 the applicant may be filed with the county auditor in like manner
3 and with the same effect as provided in the original certificate
4 or permit to divert water. If the water right has not been used
5 during the previous ten years but the nonuse of which qualifies
6 for one or more of the statutory exceptions to relinquishment in
7 RCW 90.14.140 and 90.44.520, the period of nonuse is not included
8 in the most recent five-year period of continuous beneficial use
9 for purposes of determining the annual consumptive quantity of
10 water under this section.

11
12 (2) The department's determination of the extent and validity
13 of water rights under this section shall be consistent with
14 section . . . of this act.

15
16 (3) The department may establish a reasonable schedule for
17 completion of necessary work to effect a change in the purpose,
18 place, or manner of use or for the construction of works to effect
19 an authorized change of point of diversion or withdrawal. Nonuse
20 during such a reasonable schedule is not subject to relinquishment
21 provided the project is pursued in accordance with RCW 90.03.320.
22 Failure to complete all or a portion of the change results in
23 relinquishment of the right unless otherwise excused under RCW
24 90.14.140.

25
26 (4) If an application for change proposes to transfer water
27 rights from one irrigation district to another, the department
28 shall, before publication of notice, receive concurrence from each
29 of the irrigation districts that such transfer or change will not
30 adversely affect the ability to deliver water to other landowners
31 or impair the financial integrity of either of the districts.

1
2 (~~((3))~~) (5) A change in place of use by an individual water
3 user or users of water provided by an irrigation district need
4 only receive approval for the change from the board of directors
5 of the district if the use of water continues within the
6 irrigation district, and when water is provided by an irrigation
7 entity that is a member of a board of joint control created under
8 chapter 87.80 RCW, approval need only be received from the board
9 of joint control if the use of water continues within the area of
10 jurisdiction of the joint board and the change can be made without
11 detriment or injury to existing rights.

12
13 (~~((4))~~) (6) This section shall not apply to trust water rights
14 acquired by the state through the funding of water conservation
15 projects under chapter 90.38 RCW or RCW 90.42.010 through
16 90.42.070.

17
18 (~~((5))~~) (7)(a) Pending applications for new water rights are
19 not entitled to protection from impairment, injury, or detriment
20 when an application relating to an existing surface or ground
21 water right is considered.

22 (b) Applications relating to existing surface or ground water
23 rights may be processed and decisions on them rendered
24 independently of processing and rendering decisions on pending
25 applications for new water rights within the same source of supply
26 without regard to the date of filing of the pending applications
27 for new water rights.

28 (c) Notwithstanding any other existing authority to process
29 applications, including but not limited to the authority to
30 process applications under WAC 173-152-050 as it existed on
31 January 1, 2001, an application relating to an existing surface or

1 ground water right may be processed ahead of a previously filed
2 application relating to an existing right when sufficient
3 information for a decision on the previously filed application is
4 not available and the applicant for the previously filed
5 application is sent written notice that explains what information
6 is not available and informs the applicant that processing of the
7 next application will begin. The previously filed application
8 does not lose its priority date and if the information is provided
9 by the applicant within sixty days, the previously filed
10 application shall be processed at that time. This subsection
11 ~~((+5+))~~ (7)(c) does not affect any other existing authority to
12 process applications.

13 (d) Nothing in this subsection ~~((+5+))~~ (6) is intended to stop
14 the processing of applications for new water rights.

15
16 ~~((+6+))~~ (8) No applicant for a change, transfer, or amendment
17 of a water right may be required to give up any part of the
18 applicant's valid water right or claim to a state agency, the
19 trust water rights program, or to other persons as a condition of
20 processing the application.

21
22 ~~((+7+))~~ (9) In revising the provisions of this section and
23 adding provisions to this section by chapter 237, Laws of 2001,
24 the legislature does not intend to imply legislative approval or
25 disapproval of any existing administrative policy regarding, or
26 any existing administrative or judicial interpretation of, the
27 provisions of this section not expressly added or revised.

28
29 ~~((+8+))~~ (10) The development and use of a small irrigation
30 impoundment, as defined in RCW 90.03.370(8), does not constitute a
31 change or amendment for the purposes of this section. The

1 exemption expressly provided by this subsection shall not be
2 construed as requiring a change or transfer of any existing water
3 right to enable the holder of the right to store water governed by
4 the right.

5 **Sec. 408.** RCW 90.44.100 and 2009 c 183 s 16 are each amended
6 to read as follows:

7
8 (1) After an application to, and upon the issuance by the
9 department of an amendment to the appropriate permit or
10 certificate of groundwater right, the holder of a valid right to
11 withdraw public groundwaters may, without losing the holder's
12 priority of right, construct wells or other means of withdrawal at
13 a new location in substitution for or in addition to those at the
14 original location, or the holder may change the manner or the
15 place of use of the water.

16
17 (2) An amendment to construct replacement or a new additional
18 well or wells at a location outside of the location of the
19 original well or wells or to change the manner or place of use of
20 the water shall be issued only after publication of notice of the
21 application and findings as prescribed in the case of an original
22 application. Such amendment shall be issued by the department
23 only on the conditions that: (a) The additional or replacement
24 well or wells shall tap the same body of public groundwater as the
25 original well or wells; (b) where a replacement well or wells is
26 approved, the use of the original well or wells shall be
27 discontinued and the original well or wells shall be properly
28 decommissioned as required under chapter 18.104 RCW; (c) where an
29 additional well or wells is constructed, the original well or
30 wells may continue to be used, but the combined total withdrawal

1 from the original and additional well or wells shall not enlarge
2 the right conveyed by the original permit or certificate; and (d)
3 other existing rights shall not be impaired. The department may
4 specify an approved manner of construction and shall require a
5 showing of compliance with the terms of the amendment, as provided
6 in RCW 90.44.080 in the case of an original permit.

7
8 (3) The construction of a replacement or new additional well
9 or wells at the location of the original well or wells shall be
10 allowed without application to the department for an amendment.
11 However, the following apply to such a replacement or new
12 additional well: (a) The well shall tap the same body of public
13 groundwater as the original well or wells; (b) if a replacement
14 well is constructed, the use of the original well or wells shall
15 be discontinued and the original well or wells shall be properly
16 decommissioned as required under chapter 18.104 RCW; (c) if a new
17 additional well is constructed, the original well or wells may
18 continue to be used, but the combined total withdrawal from the
19 original and additional well or wells shall not enlarge the right
20 conveyed by the original water use permit or certificate; (d) the
21 construction and use of the well shall not interfere with or
22 impair water rights with an earlier date of priority than the
23 water right or rights for the original well or wells; (e) the
24 replacement or additional well shall be located no closer than the
25 original well to a well it might interfere with; (f) the
26 department may specify an approved manner of construction of the
27 well; and (g) the department shall require a showing of compliance
28 with the conditions of this subsection (3).

29
30 (4) As used in this section, the "location of the original
31 well or wells" is the area described as the point of withdrawal in

1 the original public notice published for the application for the
2 water right for the well.

3
4 (5) The development and use of a small irrigation impoundment,
5 as defined in RCW 90.03.370(8), does not constitute a change or
6 amendment for the purposes of this section. The exemption
7 expressly provided by this subsection shall not be construed as
8 requiring an amendment of any existing water right to enable the
9 holder of the right to store water governed by the right.

10
11 (6) This section does not apply to a water right involved in
12 an approved local water plan created under RCW 90.92.090 or a
13 banked water right under RCW 90.92.070.

14
15 (7) The department's determination of the extent and validity
16 of water rights under this section must be consistent with Sec . .
17 . of this act.

18 **Sec. 409.** RCW 90.44.100 and 2003 c 329 s 3 are each amended
19 to read as follows:

20
21 (1) After an application to, and upon the issuance by the
22 department of an amendment to the appropriate permit or
23 certificate of groundwater right, the holder of a valid right to
24 withdraw public groundwaters may, without losing the holder's
25 priority of right, construct wells or other means of withdrawal at
26 a new location in substitution for or in addition to those at the
27 original location, or the holder may change the manner or the
28 place of use of the water.

1 (2) An amendment to construct replacement or a new additional
2 well or wells at a location outside of the location of the
3 original well or wells or to change the manner or place of use of
4 the water shall be issued only after publication of notice of the
5 application and findings as prescribed in the case of an original
6 application. Such amendment shall be issued by the department
7 only on the conditions that: (a) The additional or replacement
8 well or wells shall tap the same body of public groundwater as the
9 original well or wells; (b) where a replacement well or wells is
10 approved, the use of the original well or wells shall be
11 discontinued and the original well or wells shall be properly
12 decommissioned as required under chapter 18.104 RCW; (c) where an
13 additional well or wells is constructed, the original well or
14 wells may continue to be used, but the combined total withdrawal
15 from the original and additional well or wells shall not enlarge
16 the right conveyed by the original permit or certificate; and (d)
17 other existing rights shall not be impaired. The department may
18 specify an approved manner of construction and shall require a
19 showing of compliance with the terms of the amendment, as provided
20 in RCW 90.44.080 in the case of an original permit.

21
22 (3) The construction of a replacement or new additional well
23 or wells at the location of the original well or wells shall be
24 allowed without application to the department for an amendment.
25 However, the following apply to such a replacement or new
26 additional well: (a) The well shall tap the same body of public
27 groundwater as the original well or wells; (b) if a replacement
28 well is constructed, the use of the original well or wells shall
29 be discontinued and the original well or wells shall be properly
30 decommissioned as required under chapter 18.104 RCW; (c) if a new
31 additional well is constructed, the original well or wells may

1 continue to be used, but the combined total withdrawal from the
2 original and additional well or wells shall not enlarge the right
3 conveyed by the original water use permit or certificate; (d) the
4 construction and use of the well shall not interfere with or
5 impair water rights with an earlier date of priority than the
6 water right or rights for the original well or wells; (e) the
7 replacement or additional well shall be located no closer than the
8 original well to a well it might interfere with; (f) the
9 department may specify an approved manner of construction of the
10 well; and (g) the department shall require a showing of compliance
11 with the conditions of this subsection (3).

12
13 (4) As used in this section, the "location of the original
14 well or wells" is the area described as the point of withdrawal in
15 the original public notice published for the application for the
16 water right for the well.

17
18 (5) The development and use of a small irrigation impoundment,
19 as defined in RCW 90.03.370(8), does not constitute a change or
20 amendment for the purposes of this section. The exemption
21 expressly provided by this subsection shall not be construed as
22 requiring an amendment of any existing water right to enable the
23 holder of the right to store water governed by the right.

24
25 (6) The department's determination of the extent and validity
26 of water rights under this section must be consistent with Sec . .
27 . of this act.

28
29 **PART 5**
30 **WATER BUDGET**

1 **Sec. 501.** RCW 90.54.120 and 1971 ex.s. c 225 s 13 are each
2 amended to read as follows:

3
4 ~~((For the purposes of this chapter, unless the context is~~
5 ~~clearly to the contrary, the following definitions shall be~~
6 ~~used:))~~ The definitions in this section apply throughout this
7 chapter unless the context clearly requires otherwise.

8
9 (1) "Department" means department of ecology.

10
11 (2) "Utilize" or "utilization" shall not only mean use of
12 water for such long recognized consumptive or nonconsumptive
13 beneficial purposes as domestic, stock watering, industrial,
14 commercial, agricultural, irrigation, hydroelectric power
15 production, thermal power production, mining, recreational,
16 maintenance of wildlife and fishlife purposes, but includes the
17 retention of water in lakes and streams for the protection of
18 environmental, scenic, aesthetic and related purposes, upon which
19 economic values have not been placed historically and are
20 difficult to quantify.

21
22 (3) "Water budget" means an estimation of the monthly distribution
23 in time and place of water availability for surface and
24 groundwater resources within a water resource inventory area and
25 its subbasins, taking into account the water supply and demand in
26 the watershed.

27
28 (4) "WRIA" means a water resource inventory area established in
29 chapter 173-500 WAC.

1 **Sec. 502.** RCW 90.54.040 and 1997 c 32 s 2 are each amended to
2 read as follows:

3
4 (1) The department, through the adoption of appropriate rules,
5 is directed, as a matter of high priority to (~~insure~~) ensure
6 that the waters of the state are utilized for the best interests
7 of the people, to develop and implement in accordance with the
8 policies of this chapter a comprehensive state water resources
9 program which will provide a process for making decisions on
10 future water resource allocation and use. The department may
11 develop the program in segments so that immediate attention may be
12 given to waters of a given physioeconomic region of the state or
13 to specific critical problems of water allocation and use. In
14 developing segments of this program, the department must work with
15 watershed groups and interests, including but not limited to
16 watershed planning units operating under chapter 90.82 RCW.

17
18 (2) In relation to the management and regulatory programs
19 relating to water resources vested in it, the department is
20 further directed to modify existing regulations and adopt new
21 regulations, when needed and possible, to (~~insure~~) ensure that
22 existing regulatory programs are in accord with the water resource
23 policy of this chapter and the program established in subsection
24 (1) of this section.

25
26 (3) The department is directed to review all statutes relating
27 to water resources which it is responsible for implementing. When
28 any of the same appear to the department to be ambiguous, unclear,
29 unworkable, unnecessary, or otherwise deficient, it shall make
30 recommendations to the legislature including appropriate proposals
31 for statutory modifications or additions. Whenever it appears

1 that the policies of any such statutes are in conflict with the
2 policies of this chapter, and the department is unable to fully
3 perform as provided in subsection (2) of this section, the
4 department is directed to submit statutory modifications to the
5 legislature which, if enacted, would allow the department to carry
6 out such statutes in harmony with this chapter.

7
8 (4) The department shall incorporate water budgets it has
9 approved into the comprehensive state water resources program to
10 assist the department in making decisions on future water resource
11 allocation and use, as identified in subsection (1) of this
12 section.

13 **Sec. 503.** RCW 90.54.030 and 1997 c 32 s 1 are each amended to
14 read as follows:

15 (1) For the purpose of ensuring better understanding of
16 current water use and instream flows in each WRIA of the state and
17 to ensure that the department and the public are~~is~~ fully advised
18 in relation to the performance of the water resources program
19 provided in RCW 90.54.040 and Sec 504 of this act, the department
20 is directed to become informed with regard to all phases of water
21 and related resources of the state. To accomplish this objective
22 the department shall:

23
24 (1a) Develop a comprehensive water resource data program that
25 provides the information necessary for effective planning and
26 management on a regional and statewide basis. The data program
27 shall include an information management plan describing the data
28 requirements for effective water resource planning, and a system
29 for collecting and providing access to water resource data on a

1 regional and statewide basis;

2
3 (2b) Collect, organize and catalog existing information and
4 studies available to it from all sources, both public and private,
5 pertaining to water and related resources of the state;

6
7 (3c) Develop such additional data and studies pertaining to
8 water and related resources as are necessary to accomplish the
9 objectives of this chapter; and

10
11 (4d) Develop alternate courses of action to solve existing
12 and foreseeable problems of water and related resources and
13 include therein, to the extent feasible, the economic and social
14 consequences of each such course, and the impact on the natural
15 environment.

16
17 (e) All the foregoing shall be included in a "water resources
18 information system" established and maintained by the department.
19 The department shall develop a system of cataloging, storing and
20 retrieving the information and studies of the information system
21 so that they may be made readily available to and effectively used
22 not only by the department but by the public generally. By
23 November 15, 2015, the department shall update the aggregate water
24 resource information published on its web site pursuant to
25 90.90.050 RCW to include the information provided in this section
26 for all water resource inventory areas in the state, and shall
27 periodically update the data.

28
29 (2) To accomplish the objective of subsection (1) of this
30 section, the department shall use information compiled by
31 interested county legislative authorities, existing local

1 watershed planning groups, and affected federal agencies,
2 federally recognized tribal governments, irrigation districts,
3 conservation districts in the area, and other available sources.

4 The information must include:

5 (a) The total aggregate quantity of water rights issued under
6 state permits and certificates and filed under state claims for
7 each WRIA within the state;

8 (b) The total aggregate volume of current water use under
9 these rights as metered and reported by water users under current
10 law; and

11 (c) An estimate of current water use for all permitted and
12 permit-exempt out-of-stream uses in the management area, segmented
13 by type of use, including but not limited to domestic,
14 agricultural, municipal, power, and industrial uses.

15
16 (3) To accomplish the objective of subsection (1) of this
17 section, the department shall provide sufficient hydrographic
18 information to characterize historic surface flow characteristics
19 for key surface sources in each WRIA and a comparison of those
20 flows to adopted instream flow rules for wet, dry, and normal
21 water years.

22 NEW SECTION. Sec. 504. A new section is added to chapter
23 90.54 RCW to read as follows:

24
25 (1) To support the development of new water supplies and to
26 protect instream flows, the department shall work with all
27 interested parties, including interested county legislative
28 authorities, watershed planning groups, federal agencies,
29 federally recognized and affected tribal governments, irrigation
30 districts, and conservation districts in the area to develop water

1 supply inventories and a long-term water supply and demand
2 forecasts throughout the state. The department may develop such
3 inventories and forecasts in segments so that immediate attention
4 may be given to waters of a given physioeconomic region of the
5 state or to specific critical problems of water allocation and
6 use.

7
8 (2) The long-term water supply and demand forecasts developed
9 under subsection (1) of this section must include:

10 (a) An estimation of historic and future water supply
11 available from surface and groundwater in each WRIA. The
12 estimation must consider both the physical and legal availability
13 of water;

14 (b) An estimation of water demand in the future from all
15 permitted and permit-exempt out-of-stream uses in each WRIA,
16 segmented by type of use (domestic and municipal, agricultural,
17 power, and industrial).

18
19 (3) The water supply inventories developed under subsection
20 (1) of this section must include:

21 (a) A list of conservation projects that have been implemented
22 under this chapter and the amount of water conservation they have
23 achieved;

24 (b) A list of potential water supply and storage projects,
25 including estimates of:

26 (i) Cost per acre foot;

27 (ii) Benefit to fish and other instream needs;

28 (iii) Benefit to out-of-stream needs; and

29 (iv) Environmental and cultural impacts; and

30 (c) An assessment of options to make new water supplies
31 available for instream and out-of-stream purposes, including

1 procedures and administrative mechanisms that promote stream flow
2 restoration and out-of-stream improvements concurrently. This
3 assessment must include an estimation of the water supplies
4 potentially available through water conservation, efficiency, and
5 demand reduction strategies such as those set forth in RCW
6 90.82.070(2), and other water supply and demand reduction
7 strategies as appropriate. These estimates must quantify the
8 volume of water that could be derived from these measures and
9 strategies, and describe the geographic areas and limitations of
10 water supply availability derived from such measures, by type of
11 use, and the costs of pursuing them. This assessment must also
12 include options for water supply projects that retune water from
13 times of relative abundance to relative scarcity.

14
15 NEW SECTION. **Sec. 505.** A new section is added to chapter
16 90.54 RCW to read as follows:
17 The department may set, either by order or rule, non-binding
18 achievable stream flow restoration benchmarks and state the
19 preferred, though not exclusive, means by which the department and
20 other parties may seek to achieve the benchmarks.

21
22
23 **PART 6**

24 **WATERSHED MANAGEMENT**

25 **Sec. 601.** RCW 90.82.020 and 1997 c 442 s 103 are each amended
26 to read as follows:

1
2 (~~((Unless the context clearly requires otherwise,))~~) The
3 definitions in this section apply throughout this chapter unless
4 the context clearly requires otherwise.

5
6 (1) "Department" means the department of ecology.

7
8 (2) "Implementing rules" for a WRIA plan are the rules needed
9 to give force and effect to the parts of the plan that create
10 rights or obligations for any party including a state agency or
11 that establish water management policy.

12
13 (3) "Minimum instream flow" means a minimum flow under chapter
14 90.03 or 90.22 RCW or a base flow under chapter 90.54 RCW.

15
16 (4) "WRIA" means a water resource inventory area established
17 in chapter 173-500 WAC as it existed on January 1, 1997.

18
19 (5) "Water supply utility" means a water, combined water-
20 sewer, irrigation, reclamation, or public utility district that
21 provides water to persons or other water users within the district
22 or a division or unit responsible for administering a publicly
23 governed water supply system on behalf of a county.

24
25 (6) "WRIA plan" or "plan" means the product of the planning
26 unit including any rules adopted in conjunction with the product
27 of the planning unit.

28
29 (7) "Water budget" has the same meaning as defined in RCW
30 90.54.120.

1 **Sec. 602.** RCW 90.82.040 and 2003 1st sp.s. c 4 s 2 are each
2 amended to read as follows:

3
4 (1) Once a WRIA planning unit has been initiated under RCW
5 90.82.060 and a lead agency has been designated, it shall notify
6 the department and may apply to the department for funding
7 assistance for conducting the planning and implementation. Funds
8 shall be provided from and to the extent of appropriations made by
9 the legislature to the department expressly for this purpose.

10
11 (2)(a) Each planning unit that has complied with subsection
12 (1) of this section is eligible to receive watershed planning
13 grants in the following amounts for the first three phases of
14 watershed planning and phase four watershed plan implementation:

15 (i) Initiating governments may apply for an initial organizing
16 grant of up to fifty thousand dollars for a single WRIA or up to
17 seventy-five thousand dollars for a multi-WRIA management area in
18 accordance with RCW 90.82.060(4);

19 (ii)(A) A planning unit may apply for up to two hundred
20 thousand dollars for each WRIA in the management area for
21 conducting watershed assessments in accordance with RCW 90.82.070,
22 except that a planning unit that chooses to conduct a detailed
23 assessment or studies under (a)(ii)(B) of this subsection or whose
24 initiating governments choose or have chosen to include an
25 instream flow or water quality component in accordance with RCW
26 90.82.080 or 90.82.090 may apply for up to one hundred thousand
27 additional dollars for each instream flow and up to one hundred
28 thousand additional dollars for each water quality component
29 included for each WRIA to conduct an assessment on that optional
30 component and for each WRIA in which the assessments or studies
31 under (a)(ii)(B) of this subsection are conducted.

1 (B) A planning unit may elect to apply for up to one hundred
2 thousand additional dollars to conduct a detailed assessment of
3 multipurpose water storage opportunities or for studies of
4 specific multipurpose storage projects which opportunities or
5 projects are consistent with and support the other elements of the
6 planning unit's watershed plan developed under this chapter; and

7 (iii) A planning unit may apply for up to two hundred fifty
8 thousand dollars for each WRIA in the management area for
9 developing a watershed plan and making recommendations for actions
10 by local, state, and federal agencies, tribes, private property
11 owners, private organizations, and individual citizens, including
12 a recommended list of strategies and projects that would further
13 the purpose of the plan in accordance with RCW 90.82.060 through
14 90.82.100.

15 (b) A planning unit may request a different amount for phase
16 two or phase three of watershed planning than is specified in (a)
17 of this subsection, provided that the total amount of funds
18 awarded do not exceed the maximum amount the planning unit is
19 eligible for under (a) of this subsection. The department shall
20 approve such an alternative allocation of funds if the planning
21 unit identifies how the proposed alternative will meet the goals
22 of this chapter and provides a proposed timeline for the
23 completion of planning. However, the up to one hundred thousand
24 additional dollars in funding for instream flow and water quality
25 components and for water storage assessments or studies that a
26 planning unit may apply for under (a)(ii)(A) and (B) of this
27 subsection may be used only for those instream flow, water
28 quality, and water storage purposes.

29 (c) (~~(By December 1, 2001, or)~~) Within one year of initiating
30 phase one of watershed planning, (~~(whichever occurs later,)~~) the
31 initiating governments for each planning unit must inform the

1 department whether they intend to have the planning unit establish
2 or amend instream flows as part of its planning process. If they
3 elect to have the planning unit establish or amend instream flows,
4 the planning unit is eligible to receive one hundred thousand
5 dollars for that purpose in accordance with (a)(ii)(A) of this
6 subsection. If the initiating governments for a planning unit
7 elect not to establish or amend instream flows as part of the
8 unit's planning process, the department shall retain one hundred
9 thousand dollars to carry out an assessment to support
10 establishment of instream flows and to establish such flows in
11 accordance with RCW 90.54.020(3)(a) and chapter 90.22 RCW. The
12 department shall not use these funds to amend an existing instream
13 flow unless requested to do so by the initiating governments for a
14 planning unit.

15 (d) In administering funds appropriated for supplemental
16 funding for optional plan components under (a)(ii) of this
17 subsection, the department shall give priority in granting the
18 available funds to proposals for setting or amending instream
19 flows.

20 (e) A planning unit may apply for a matching grant for phase
21 four watershed plan implementation following approval under the
22 provisions of RCW 90.82.130. ~~((A match of ten percent is required~~
23 ~~and)) For years one, two, three, four, and five of phase four, a~~
24 ~~match of ten percent is required. For years six, seven, eight,~~
25 ~~and nine of phase four, a match of fifty percent is required. For~~
26 ~~all years in phase four, the match~~ may include financial
27 contributions or in-kind goods and services directly related to
28 coordination, plan, or project implementation, and oversight
29 functions. The match can be provided by the planning unit or by
30 the combined commitments from federal agencies, tribal
31 governments, local governments, special districts, or other local

1 organizations. The phase four grant may be up to one hundred
2 thousand dollars for each planning unit for each of the first
3 three years of implementation. At the end of the three-year
4 period, a two-year extension may be available for up to fifty
5 thousand dollars each year. At the end of five years and for
6 years six and seven, a two-year matching grant extension may be
7 applied for with funding up to fifty thousand dollars each year.
8 For years eight and nine, planning units may apply for another
9 two-year matching grant extension with funding up to fifty
10 thousand dollars each year. For planning units that cover more
11 than one WRIA, additional matching funds of up to twenty-five
12 thousand dollars may be available for each additional WRIA per
13 year for the first three years of implementation, and up to twelve
14 thousand five hundred dollars per WRIA per year for each of the
15 fourth ~~((and fifth years))~~, fifth, sixth, seventh, eighth, and
16 ninth years.

17 (f) When evaluating requests from watershed planning units and
18 lead agencies to implement an adopted watershed plan and a
19 completed detailed implementation plan for funding consistent with
20 (e) of this subsection and for years two through nine, the
21 department must give priority consideration to grant proposals
22 that directly support activities or implement projects that:

23 (i) Integrate watershed plan implementation with the goals,
24 objectives, or work plans of other local, regional, or statewide
25 water resource, water quality, or fish recovery programs and
26 plans;

27 (ii) Assist the department in the development of a new, or
28 improvements to an existing, water budget. To implement this
29 subsection (2)(f)(ii), the planning unit must work with the
30 department to identify any areas of substantive water management
31 data gaps or technical gaps based on current information. The

1 planning unit must coordinate with the department to prioritize
2 future actions necessary to address any substantive data gaps or
3 technical gaps in the water budget. Planning units may list the
4 improvement of its phase two watershed assessment as its highest
5 priority when making any future decisions about watershed plan
6 implementation;

7 (iii) Assist the department in developing strategies and
8 setting priorities to enhance, restore, or augment stream flows;

9 (iv) Assist the department in developing water supply and
10 demand forecasts;

11 (v) Include in phase four, year six, a review of the adopted
12 watershed plan and the detailed implementation plan to affirm that
13 the highest priority water resource management issue or issues in
14 the watershed or watersheds are being addressed by the planning
15 unit, initiating governments, or other applicable local and tribal
16 governments in the basin. A detailed implementation plan update
17 is required at the end of year six and year nine. This plan
18 update must include a ranked ordering of water quantity, water
19 quality, and habitat projects or needs to address the highest
20 priority issues.

21 (g) Throughout phase four, planning units with a detailed
22 implementation plan are eligible to apply for special grants from
23 the state's operating or capital budgets. These funds must be
24 used to carry out locally managed projects to the extent funds are
25 appropriated by the legislature for the purposes of implementing
26 this act. In addition to the eligibility requirements and
27 priority considerations of this subsection and subsection (3) of
28 this section, the department must consider the following to make
29 grant award decisions for phase four:

30 (i) The existence, or reasonably anticipated emergence, of
31 critical water supply and demand issues that may create

1 consistent, adverse impacts on annual or seasonal water
2 availability for people, farms, or fish;

3 (ii) The existence, or reasonably anticipated emergence, of
4 critical water quality issues that may create adverse impacts to
5 public or environmental health or local economies;

6 (iii) The extent to which the adopted watershed plan, the
7 detailed implementation plan, and related implementation project
8 proposals are integrated with or will support other statewide or
9 regional water quantity or quality initiatives;

10 (iv) The department's work plan for review of existing or
11 development of new instream flow or basin water management rules
12 to be adopted by the department;

13 (v) The capacity of the planning unit and the lead agency for
14 grant administration and project management under this chapter.

15 (h) Nothing in this chapter precludes counties, cities,
16 conservation districts, public utility districts, or other legally
17 recognized special purpose districts of the state that physically
18 or financially support a watershed planning unit and lead agency
19 to exercise their legislated powers to raise local revenue to fund
20 long-term watershed plan implementation needs or projects.

21
22 (3)(a) The department shall use the eligibility and priority
23 criteria in this subsection (3) instead of rules, policies, or
24 guidelines when evaluating grant applications ((at each stage of
25 the grants program)) during phases one, two, three, and four as
26 identified in this section.

27 (b) ~~((In))~~ When reviewing the eligibility of grant
28 applications under this subsection (3), the department shall
29 evaluate whether:

30 (i) The planning unit meets all of the requirements of this
31 chapter;

(ii) The application demonstrates a need for state planning funds to accomplish the objectives of the planning process; and

~~— (iii) The application and supporting information evidences a readiness))~~ shows a need for development and implementation grant funds to accomplish the objectives of this section; and

(iii) The application and supporting information shows the grantee is ready to proceed.

(c) ~~((In ranking grant applications submitted at each stage of the grants program, the department shall give preference to applications in the following order of priority:~~

~~— (i) Applications from existing planning groups that have been in existence for at least one year;~~

~~— (ii) Applications that address protection and enhancement of))~~

When making decisions on the priority of funding grant applications submitted during phases one, two, and three as identified in this section, and in addition to priority considerations for funding phase four grants in subsection (2) of this section, the department shall give preference to applications that will:

(i) Protect and enhance fish habitat in watersheds that have aquatic fish species listed or proposed to be listed as endangered or threatened under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq. and for which there is evidence of an inability to supply adequate water for the existing population, or for projected population growth and economic growth ((from:

~~— (A) First, multi-WRIA planning; and~~

~~— (B) Second, single WRIA planning;~~

~~— (iii) Applications that address protection and enhancement of))~~;

(iii) Protect and enhance fish habitat and flows in watersheds or for which there is evidence of an inability to supply adequate

1 water ~~((for))~~ to support existing population or projected
2 population growth and economic growth ~~((from:~~

3 ~~—— (A) First, multi-WRIA planning; and~~

4 ~~—— (B) Second, single WRIA planning))~~.

5 (d) Except for phase four watershed plan implementation, the
6 department may not impose any local matching fund requirement as a
7 condition for grant eligibility or as a preference for receiving a
8 grant.

9 (4) ~~((The department may retain up to one percent of funds~~
10 ~~allocated under this section to defray administrative costs.~~

11 ~~—— (5))~~ Planning and implementation under this chapter
12 ~~((should))~~ must be completed as expeditiously as possible, with
13 the focus being on local stakeholders cooperating to meet local
14 needs and partnering with other regional, state, or federal
15 entities and initiatives to address water management problems,
16 issues, and challenges.

17
18 ~~((6) Funding provided under this section shall be considered~~
19 ~~a contractual obligation against the moneys appropriated for this~~
20 ~~purpose.))~~

21
22 **Sec. 603.** RCW 90.82.043 and 2007 c 445 s 6 are each amended
23 to read as follows:

24
25 (1) Within one year of accepting funding under RCW
26 90.82.040(2)(e), the planning unit must complete a detailed
27 implementation plan. Submittal of a detailed implementation plan
28 to the department is a condition of receiving grants for the
29 second and all subsequent years of the phase four grant.

1 (2) Each implementation plan must contain strategies to
2 provide sufficient water for: (a) Production agriculture; (b)
3 commercial, industrial, and residential use; and (c) instream
4 flows. Each implementation plan must contain timelines to achieve
5 these strategies and interim milestones to measure progress.

6
7 (3) The implementation plan must clearly define coordination
8 and oversight responsibilities; any needed interlocal agreements,
9 rules, or ordinances; any needed state or local administrative
10 approvals and permits that must be secured; and specific funding
11 mechanisms.

12
13 (4) In developing the implementation plan, the planning unit
14 must consult with other entities planning in the watershed
15 management area and identify and seek to eliminate any activities
16 or policies that are duplicative or inconsistent.

17
18 (5) ~~((a))~~ By ~~((December 1, 2003, and by))~~ December 1st of
19 each ~~((subsequent))~~ year, the director of the department shall
20 report to the appropriate legislative standing committees
21 regarding statutory changes necessary to enable state agency
22 approval or permit decision making needed to implement a plan
23 approved under this chapter.

24 ~~((b)) Beginning with the December 1, 2007, report, and then~~
25 ~~every two years thereafter, the director shall include in each~~
26 ~~report the extent to which reclaimed water has been identified in~~
27 ~~the watershed plans as potential sources or strategies to meet~~
28 ~~future water needs, and provisions in any watershed implementation~~
29 ~~plans that discuss barriers to implementation of the water reuse~~
30 ~~elements of those plans. The department's report shall include an~~

~~estimate of the potential cost of reclaimed water facilities and
identification of potential sources of funding for them.))~~

Sec. 604. RCW 90.82.060 and 2009 c 183 s 18 are each amended
to read as follows:

(1) Planning conducted under this chapter must provide for a
process to allow the local citizens within a WRIA or multi-WRIA
area to join together in an effort to: (a) Assess the status of
the water resources of their WRIA or multi-WRIA area; and (b)
determine how best to manage the water resources of the WRIA or
multi-WRIA area to balance the competing resource demands for that
area within the parameters under RCW 90.82.120.

(2)(a) Watershed planning under this chapter may be initiated
for a WRIA only with the concurrence of: (i) All counties within
the WRIA; (ii) the largest city or town within the WRIA unless the
WRIA does not contain a city or town; and (iii) the water supply
utility obtaining the largest quantity of water from the WRIA or,
for a WRIA with lands within the Columbia Basin project, the water
supply utility obtaining from the Columbia Basin project the
largest quantity of water for the WRIA. To apply for a grant for
organizing the planning unit as provided for under RCW
90.82.040(2)(a), these entities shall designate the entity that
will serve as the lead agency for the planning effort and indicate
how the planning unit will be staffed.

(b) For purposes of this chapter, WRIA 40 shall be divided
such that the portion of the WRIA located entirely within the
Stemilt and Squilchuck subbasins shall be considered WRIA 40a and
the remaining portion shall be considered WRIA 40b. Planning may
be conducted separately for WRIA 40a and 40b. WRIA 40a shall be

1 eligible for one-fourth of the funding available for a single
2 WRIA, and WRIA 40b shall be eligible for three-fourths of the
3 funding available for a single WRIA, for phases one, two, and
4 three. Both WRIAs 40a and 40b are eligible for the full amounts
5 of funding allotted to a whole WRIA for planning units in phase
6 four.

7 (c) For purposes of this chapter, WRIA 29 shall be divided
8 such that the portion of the WRIA located entirely within the
9 White Salmon

10 subbasin and the subbasins east thereof shall be considered WRIA
11 29b and the remaining portion shall be considered WRIA 29a.
12 Planning may be conducted separately for WRIA 29a and 29b. WRIA
13 29a shall be eligible for one-half of the funding available for a
14 single WRIA and WRIA 29b shall be eligible for one-half of the
15 funding available for a single WRIA, for phases one, two, and
16 three. Both WRIAs 29a and 29b are eligible for the full amounts
17 of funding allotted to a whole WRIA for planning units in phase
18 four.

19 (d) For purposes of this chapter, WRIA 14 shall be divided
20 such that the portion of the WRIA where surface waters drain into
21 Hood Canal shall be considered WRIA 14b, and the remaining portion
22 shall be considered WRIA 14a. Planning for WRIA 14b under this
23 chapter shall be conducted by the WRIA 16 planning unit. WRIA 14b
24 shall be eligible for one-half of the funding available for a
25 single WRIA, and WRIA 14a shall be eligible for one-half of the
26 funding available for a single WRIA, for phases one, two, and
27 three. Both WRIAs 14a and 14b are eligible for the full amounts
28 of funding allotted to a whole WRIA for planning units in phase
29 four.

1 (3) Watershed planning under this chapter may be initiated for
2 a multi-WRIA area only with the concurrence of: (a) All counties
3 within the multi-WRIA area; (b) the largest city or town in each
4 WRIA unless the WRIA does not contain a city or town; and (c) the
5 water supply utility obtaining the largest quantity of water in
6 each WRIA.

7
8 (4) If entities in subsection (2) or (3) of this section
9 decide jointly and unanimously to proceed, they shall invite all
10 tribes with reservation lands within the management area.

11
12 (5) The entities in subsection (2) or (3) of this section,
13 including the tribes if they affirmatively accept the invitation,
14 constitute the initiating governments for the purposes of this
15 section.

16
17 (6) The organizing grant shall be used to organize the
18 planning unit and to determine the scope of the planning to be
19 conducted. In determining the scope of the planning activities,
20 consideration shall be given to all existing plans and related
21 planning activities. The scope of planning must include water
22 quantity elements as provided in RCW 90.82.070, and may include
23 water quality elements as contained in RCW 90.82.090, habitat
24 elements as contained in RCW 90.82.100, and instream flow elements
25 as contained in RCW 90.82.080. The initiating governments shall
26 work with state government, other local governments within the
27 management area, and affected tribal governments, in developing a
28 planning process. The initiating governments may hold public
29 meetings as deemed necessary to develop a proposed scope of work
30 and a proposed composition of the planning unit. In developing a
31 proposed composition of the planning unit, the initiating

1 governments shall provide for representation of a wide range of
2 water resource interests.

3
4 (7) Each state agency with regulatory or other interests in
5 the WRIA or multi-WRIA area to be planned shall assist the local
6 citizens in the planning effort to the greatest extent
7 practicable, recognizing any fiscal limitations. In providing
8 such technical assistance and to facilitate representation on the
9 planning unit, state agencies may organize and agree upon their
10 representation on the planning unit. Such technical assistance
11 must only be at the request of and to the extent desired by the
12 planning unit conducting such planning. The number of state
13 agency representatives on the planning unit shall be determined by
14 the initiating governments in consultation with the governor's
15 office.

16
17 (8) As used in this section, "lead agency" means the entity
18 that coordinates staff support of its own or of other local
19 governments and receives grants for developing a watershed plan.

20
21 (9) A planning unit is dissolved when the department approves
22 a water management board, as authorized in RCW 90.92.030, and all
23 assets, funds, files, planning documents, pending plans and grant
24 applications, and other current activities of the planning unit
25 are transferred to the approved water management board. The
26 approved water management board must assume the duties,
27 responsibilities, and activities of the planning unit and the
28 initiating governments, as required in this chapter.

29 **Sec. 605.** RCW 90.82.060 and 2008 c 210 s 1 are each amended
30 to read as follows:

1
2 (1) Planning conducted under this chapter must provide for a
3 process to allow the local citizens within a WRIA or multi-WRIA
4 area to join together in an effort to: (a) Assess the status of
5 the water resources of their WRIA or multi-WRIA area; and (b)
6 determine how best to manage the water resources of the WRIA or
7 multi-WRIA area to balance the competing resource demands for that
8 area within the parameters under RCW 90.82.120.
9

10 (2)(a) Watershed planning under this chapter may be initiated
11 for a WRIA only with the concurrence of: (i) All counties within
12 the WRIA; (ii) the largest city or town within the WRIA unless the
13 WRIA does not contain a city or town; and (iii) the water supply
14 utility obtaining the largest quantity of water from the WRIA or,
15 for a WRIA with lands within the Columbia Basin project, the water
16 supply utility obtaining from the Columbia Basin project the
17 largest quantity of water for the WRIA. To apply for a grant for
18 organizing the planning unit as provided for under RCW
19 90.82.040(2)(a), these entities shall designate the entity that
20 will serve as the lead agency for the planning effort and indicate
21 how the planning unit will be staffed.

22 (b) For purposes of this chapter, WRIA 40 shall be divided
23 such that the portion of the WRIA located entirely within the
24 Stemilt and Squilchuck subbasins shall be considered WRIA 40a and
25 the remaining portion shall be considered WRIA 40b. Planning may
26 be conducted separately for WRIA 40a and 40b. WRIA 40a shall be
27 eligible for one-fourth of the funding available for a single
28 WRIA, and WRIA 40b shall be eligible for three-fourths of the
29 funding available for a single WRIA, for phases one, two, and
30 three. Both WRIsAs 40a and 40b are eligible for the full amounts

1 of funding allotted to a whole WRIA for planning units in phase
2 four.

3 (c) For purposes of this chapter, WRIA 29 shall be divided
4 such that the portion of the WRIA located entirely within the
5 White Salmon subbasin and the subbasins east thereof shall be
6 considered WRIA 29b and the remaining portion shall be considered
7 WRIA 29a. Planning may be conducted separately for WRIA 29a and
8 29b. WRIA 29a shall be eligible for one-half of the funding
9 available for a single WRIA and WRIA 29b shall be eligible for
10 one-half of the funding available for a single WRIA, for phases
11 one, two, and three. Both WRIs 29a and 29b are eligible for the
12 full amounts of funding allotted to a whole WRIA for planning
13 units in phase four.

14 (d) For purposes of this chapter, WRIA 14 shall be divided
15 such that the portion of the WRIA where surface waters drain into
16 Hood Canal shall be considered WRIA 14b, and the remaining portion
17 shall be considered WRIA 14a. Planning for WRIA 14b under this
18 chapter shall be conducted by the WRIA 16 planning unit. WRIA 14b
19 shall be eligible for one-half of the funding available for a
20 single WRIA, and WRIA 14a shall be eligible for one-half of the
21 funding available for a single WRIA, for phases one, two, and
22 three. Both WRIs 14a and 14b are eligible for the full amounts
23 of funding allotted to a whole WRIA for planning units in phase
24 four.

25
26 (3) Watershed planning under this chapter may be initiated for
27 a multi-WRIA area only with the concurrence of: (a) All counties
28 within the multi-WRIA area; (b) the largest city or town in each
29 WRIA unless the WRIA does not contain a city or town; and (c) the
30 water supply utility obtaining the largest quantity of water in
31 each WRIA.

1
2 (4) If entities in subsection (2) or (3) of this section
3 decide jointly and unanimously to proceed, they shall invite all
4 tribes with reservation lands within the management area.

5
6 (5) The entities in subsection (2) or (3) of this section,
7 including the tribes if they affirmatively accept the invitation,
8 constitute the initiating governments for the purposes of this
9 section.

10
11 (6) The organizing grant shall be used to organize the
12 planning unit and to determine the scope of the planning to be
13 conducted. In determining the scope of the planning activities,
14 consideration shall be given to all existing plans and related
15 planning activities. The scope of planning must include water
16 quantity elements as provided in RCW 90.82.070, and may include
17 water quality elements as contained in RCW 90.82.090, habitat
18 elements as contained in RCW 90.82.100, and instream flow elements
19 as contained in RCW 90.82.080. The initiating governments shall
20 work with state government, other local governments within the
21 management area, and affected tribal governments, in developing a
22 planning process. The initiating governments may hold public
23 meetings as deemed necessary to develop a proposed scope of work
24 and a proposed composition of the planning unit. In developing a
25 proposed composition of the planning unit, the initiating
26 governments shall provide for representation of a wide range of
27 water resource interests.

28
29 (7) Each state agency with regulatory or other interests in
30 the WRIA or multi-WRIA area to be planned shall assist the local
31 citizens in the planning effort to the greatest extent

1 practicable, recognizing any fiscal limitations. In providing
2 such technical assistance and to facilitate representation on the
3 planning unit, state agencies may organize and agree upon their
4 representation on the planning unit. Such technical assistance
5 must only be at the request of and to the extent desired by the
6 planning unit conducting such planning. The number of state
7 agency representatives on the planning unit shall be determined by
8 the initiating governments in consultation with the governor's
9 office.

10
11 (8) As used in this section, "lead agency" means the entity
12 that coordinates staff support of its own or of other local
13 governments and receives grants for developing a watershed plan.
14
15
16

17 **PART 7**

18 **WATER RESOURCE MANAGEMENT SERVICE FEES**

19 NEW SECTION. **Sec. 701.** A new section is added to chapter
20 90.03 RCW to read as follows:
21

22 (1)(a) Beginning in fiscal year 2014 and every state fiscal
23 year thereafter, except as provided in this section, persons or
24 entities who hold a water right document relating to the
25 withdrawal, diversion, or storage of waters of the state must
26 annually remit a water resources management services fee as
27 provided in subsection (2) of this section. For the purposes of
28 this section, a "water right document" includes a permit issued

1 under RCW 90.03.370, 90.03.290, or 90.44.050; a water right
2 certificate issued under RCW 90.03.240, 90.03.330, 90.44.080, or
3 90.44.090; information furnished by a groundwater user as required
4 by the department under RCW 90.44.050; or a statement of claim
5 filed by a person or entity under RCW 90.14.061.

6
7 (b) Exceptions to the requirement to pay water resources
8 management services fees under this subsection are provided as
9 follows:

10 (i) A withdrawal, diversion, or a water use from a reservoir
11 in an amount less than twenty thousand gallons per day;

12 (ii) A water right for generating hydroelectric power that
13 requires payment of an annual license fee under RCW 90.16.050;

14 (iii) A nonconsumptive water right that does not diminish the
15 source of water;

16 (iv) A water right held by the state of Washington;

17 (v) A water right held in trust by the state of Washington
18 under chapters 90.38 or 90.42 RCW, identified solely for in-stream
19 purposes and including water rights held temporarily in trust;

20 (vi) A water right held by the United States, including rights
21 of Indian tribes held in trust by the United States.

22 (vii) A water right for storage in a reservoir under RCW
23 90.03.370; however, water quantities documented under a secondary
24 permit or otherwise documented for a beneficial use of water from
25 a reservoir as the source of water supply, shall be assessed the
26 applicable fee under subsection (2) of this section.

27
28 (2) (a) The following schedule of annual water services
29 management fees applies to persons required to pay the annual fee
30 established in this section. Such fees are based upon the maximum

1 annual diversion or withdrawal volume allowed under the water
2 right document as follows:

3 (i) For equal to or more than ten acre feet and less than
4 forty acre feet, fifty dollars;

5 (ii) For equal to or more than forty acre feet and less than
6 one hundred acre feet, one hundred dollars;

7 (iii) For equal to or more than one hundred acre feet and less
8 than one thousand acre feet, two hundred and fifty dollars;

9 (iv) For equal to or more than a thousand acre feet and less
10 than ten thousand acre feet, one thousand and two hundred and
11 fifty dollars;

12 (v) For equal to or more than ten thousand acre feet, two
13 thousand and five hundred dollars; and

14 (b) An individual or entity shall be assessed a single fee for
15 the cumulative quantity of multiple water rights on record when
16 such rights are appurtenant to the same or adjacently owned
17 properties. The single fee shall only account for the quantity of
18 water that can legally be exercised at one time under a user's
19 portfolio of water rights. In any case, no single person or
20 entity will be required to pay more than ten thousand dollars per
21 year.

22
23 (3) The fees established in this section must also be remitted
24 by a person or organization having a contract with the United
25 States to use water provided under a water right document held by
26 the United States. The amount of the fees to be paid by such a
27 contractor are as provided in subsection (2) of this section based
28 on the maximum delivery rate under the contract.

1 (4)(a) The department shall provide notice by mail of the
2 requirement to pay fees. The notice must provide at least sixty
3 days from the date of mailing before the fee is due.

4 (b) For ease and efficiency of administration, the department
5 may stagger the issuance of the notices and the due dates for
6 payment of the fee throughout a year by geographic regions of the
7 department, and shall determine the sequence of notification by
8 county within each region through a random drawing of county
9 names.

10 (c) The department shall provide a second notice after ninety
11 days of the date of the original mailing of notice to a person who
12 has not responded. The second notice must be by certified mail
13 with return receipt requested and require payment within thirty
14 days of the mailing of the second notice. The cost of certified
15 mailing must be added to the amount due.

16 (d) The department shall widely publicize the requirement for
17 water right holders and claimants to pay the fees in this section
18 through public notices, public service announcements,
19 dissemination through newsletters of stakeholder groups, by
20 posting on the department's internet web site, and by other means,
21 including the use of online or electronic filing of forms and
22 payments, the department determines would be helpful in achieving
23 compliance with these requirements.

24
25 (5) For the purpose of updating water right records, the
26 department's initial notice must include a form that must be
27 completed and returned with the initial fee payment by any
28 person(s) or entity holding a water right. The form must include
29 but is not limited to the following information:

30 (a) The identifying water right number that appears on the
31 supporting document(s) of the subject water right. Alternately,

1 enclosing a copy of the water right permit, certificate, or
2 statement of claim filed under RCW 90.14.061 satisfies this
3 requirement;

4 (b) The name, address, and phone number of the person(s) or
5 entity who hold the water right if different from the name and
6 contact information addressed in the bill;

7 (c) The location or locations at which water is diverted,
8 withdrawn, or stored;

9 (d) The legal description of the property or properties on
10 which the water is used. If the property has been subdivided
11 since the permit or certificate was issued or the claim was
12 submitted, the name of the subdivision and the parcel or lot
13 numbers where water is currently being used and the names and
14 contact information of the persons owning the parcels where the
15 water is currently used;

16 (e) The purpose or purposes for which water is diverted,
17 withdrawn, or stored;

18 (f) The acreage of land irrigated, whether for commercial or
19 noncommercial purposes, if applicable;

20 (g) The number of housing units served, if applicable; and

21 (h) The product or products manufactured or the nature of the
22 commercial enterprise in which water is used, if applicable.

23
24 (6) The holder of a water right document whose diversion or
25 withdrawal is metered or measured by a measuring device that is
26 compliant with the department's metering standards, such as those
27 found in applicable agency rules, qualify for a ten percent
28 discount from the fees required by subsection (2) of this section
29 provided the person files with the department a one-time notarized
30 statement confirming that the person's measuring device complies

1 with department standards. The notarized statement shall be made
2 in a form provided by the department.

3
4 (7) A person may reduce or avoid paying the fee established in
5 this section by informing the department, prior to the date the
6 fee is due, that the person intends to withdraw or amend the
7 person's water right document to reduce the amount on record. The
8 department shall send the person the appropriate paperwork to be
9 submitted for this purpose and reduce the amount of fees due
10 according to the amended quantity of water. Actions under this
11 subsection do not relieve a person from the payment of past due
12 fees from a prior year.

13
14 (8)(a) If a person required to pay a fee under this section
15 fails to do so within one year of the date that the person
16 receives the second notice by certified mail, the department may
17 initiate lien proceedings against the right or claim or
18 cancellation of the permit, and the person's use of water may be
19 subject to interruption. The person must be informed that
20 interest will accrue on any unpaid fee amount in accordance with
21 (c) of this subsection.

22 (b) The department may issue orders under RCW 43.27A.190 and
23 civil penalties under RCW 90.03.600 as a result of unpaid fees.

24 (c) Interest on unpaid fees accrues and compounds after
25 payment is ninety days overdue. The interest rate is based on the
26 federal prime rate on January 1st of the year in which the
27 interest accrues.

28 (d) The department may contract with the state department of
29 revenue or other appropriate entities for administration and
30 collection of fees authorized in this section.

1 (e) The department may not consider an amendment or change to
2 a water right document until unpaid fees are remitted.

3
4 (9) All receipts from the fees collected under this section
5 must be deposited into the water resources management services
6 account established in RCW 90.14.240.

7
8 (10) Payments remitted under this section are not refundable
9 except in the case of a ministerial error that results in
10 overpayment.

11
12 (11) Payment of fees required by this section does not
13 constitute a determination or affirmation of or prima facie
14 evidence of the validity or extent of any water right or claim.

15 **Sec. 702.** RCW 90.14.240 and 2005 c 412 s 3 are each amended
16 to read as follows:

17 The water ~~((rights tracking system))~~ resources management
18 services account is created in the state treasury. ~~((Twenty~~
19 ~~percent of the fees collected by the department of ecology~~
20 ~~according to RCW 90.03.470 must be deposited in the account.))~~
21 All receipts from the fees received under section . . . of this
22 act must be deposited into the account. Moneys in the account may
23 be spent only after appropriation. Expenditures from the account
24 may be used ~~((by the department of ecology for the development,~~
25 ~~implementation, and management of a water rights tracking system,~~
26 ~~including a water rights mapping system and a water rights~~
27 ~~database))~~ by the department to support a broad range of water
28 resources management services benefiting water right holders.

1 NEW SECTION. **Sec. 703** A new section is added to chapter 90.03
2 RCW to read as follows:

3
4 (1) The department shall establish and maintain up-to-date
5 records of the ownership of water rights and claimed rights. It
6 is the responsibility of all water right holders and claimants to
7 inform the department when there is a change in ownership or
8 contact information. The department shall make forms available,
9 including electronically, for use by persons reporting a change in
10 this information.

11
12 (2) Whenever land is sold with an appurtenant water right or
13 reservoir application, permit, certificate, or statement of claim
14 under RCW 90.14.061; the seller must inform the department of the
15 sale no later than thirty days after the closing of the sale and
16 provide the name, address, and telephone number of the new owner.
17 The seller must also inform the buyer of any unpaid or pro-rated
18 balance due for water resource management fees established under
19 section . . . of this act. The department shall work with the
20 real estate industry and with local governments to develop
21 procedures and practices to implement this requirement. Failure
22 to provide the notice of sale in this section subjects the seller
23 to a civil penalty of up to five hundred dollars. Receipts
24 collected under this subsection shall be placed in the resources
25 management services account created in ... of this act. Any
26 person aggrieved by the department's issuance of a penalty may
27 appeal the department's decision to the pollution control hearings
28 board under RCW 43.21B.

29 **Sec. 704.** RCW 90.03.470 and 2005 c 412 s 2 are each amended
30 to read as follows:

1 The fees specified in this section shall be collected by the
2 department in advance of the requested action, except as provided
3 in subsection (16).
4

5 (1) For the examination of an application for a permit to
6 appropriate water, a minimum fee of fifty dollars must be remitted
7 with the application. For an amount of water exceeding one-half
8 cubic foot per second, the examination fee shall be assessed at
9 the rate of one dollar per one hundredth cubic foot per second. In
10 no case will the examination fee be less than fifty dollars or
11 more than twenty-five thousand dollars. No fee is required under
12 this subsection (1) for an application filed by a party to a cost-
13 reimbursement agreement made under RCW 90.03.265.
14

15 (2) For the examination of an application to store water, a
16 fee of two dollars for each acre foot of storage proposed shall be
17 charged, but a minimum fee of fifty dollars must be remitted with
18 the application. In no case will the examination fee for a storage
19 project be less than fifty dollars or more than twenty-five
20 thousand dollars. No fee is required under this subsection (2) for
21 an application filed by a party to a cost-reimbursement agreement
22 made under RCW 90.03.265.
23

24 (3)(a) For the examination of an application to transfer,
25 change, or amend a water right certificate, permit, or claim as
26 authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a minimum
27 fee of fifty dollars must be remitted with the application. For an
28 application for change involving an amount of water exceeding one
29 cubic foot per second, the total examination fee shall be assessed
30 at the rate of fifty cents per one hundredth cubic foot per
31 second. For an application for change of a storage water right,

1 the total examination fee shall be assessed at the rate of one
2 dollar for each acre foot of water involved in the change. The fee
3 shall be based on the amount of water subject to change as
4 proposed in the application, not on the total amount of water
5 reflected in the water right certificate, permit, or claim. In no
6 case will the examination fee charged for a change application be
7 less than fifty dollars or more than twelve thousand five hundred
8 dollars.

9 (b) The examination fee for a temporary or seasonal change
10 under RCW 90.03.390 is fifty dollars and must be remitted with the
11 application.

12 (c) No fee is required under this subsection (3) for:

13 (i) An application to process a change relating to donation
14 of a trust water right to the state;

15 (ii) An application to process a change when the department
16 otherwise acquires a trust water right for purposes of improving
17 instream flows or for other public purposes;

18 (iii) An application filed with a water conservancy board
19 according to chapter 90.80 RCW or for the review of a water
20 conservancy board's record of decision submitted to the department
21 according to chapter 90.80 RCW; or

22 (iv) An application filed by a party to a cost-reimbursement
23 agreement made under RCW 90.03.265.

24 (d) For a change, transfer, or amendment involving a single
25 project operating under more than one water right, including
26 related secondary diversion rights, or involving the consolidation
27 of multiple water rights, only one examination fee and one
28 certificate fee are required to be paid.

29
30 (4) The fifty-dollar minimum fee payable with the application
31 shall be a credit to the total amount whenever the examination fee

1 totals more than fifty dollars under the schedule specified in
2 subsections (1) through (3) of this section and in such case the
3 further fee due shall be the total computed amount, less the
4 amount previously paid. Within five working days from receipt of
5 an application, the department shall notify the applicant by
6 registered mail of any additional fees due under subsections (1)
7 through (3) of this section.

8
9 (5) The fees specified in subsections (1) through (3) of this
10 section do not apply to any filings for emergency withdrawal
11 authorizations or temporary drought-related water right changes
12 authorized under RCW 43.83B.410 that are received by the
13 department while a drought condition order issued under RCW
14 43.83B.405 is in effect.

15
16 (6) For applying for each extension of time for beginning
17 construction work under a permit to appropriate water, for
18 completion of construction work, or for completing application of
19 water to a beneficial use, a fee of fifty dollars is required.
20 These fees also apply to similar extensions of time requested
21 under a change or transfer authorization.

22
23 (7) For the inspection of any hydraulic works to insure
24 safety to life and property, a fee based on the actual cost of the
25 inspection, including the expense incident thereto, ~~is required~~
26 ~~except as follows: (a) For any hydraulic works less than ten years~~
27 ~~old, that the department examined and approved the construction~~
28 ~~plans and specifications as to its safety when required under RCW~~
29 ~~90.03.350, there shall be no fee charged; or (b) for any hydraulic~~
30 ~~works more than ten years old, but less than twenty years old,~~
31 ~~that the department examined and approved the construction plans~~

1 ~~and specifications as to its safety when required under RCW~~
2 ~~90.03.350, the fee charged shall not exceed the fee for a~~
3 ~~significant hazard dam.~~

4
5 (8) For the examination of plans and specifications as to
6 safety of controlling works for storage of ten acre feet or more
7 of water, a minimum fee of ten dollars, or a fee equal to the
8 actual cost, is required.

9
10 (9) For recording an assignment either of a permit to
11 appropriate water or of an application for such a permit, a fee of
12 fifty dollars is required.

13
14 (10) For preparing and issuing all water right certificates,
15 a fee of fifty dollars is required.

16
17 (11) For filing and recording a formal protest against
18 granting any application, a fee of fifty dollars is required. No
19 fee is required to submit a comment, by mail or otherwise,
20 regarding an application.

21
22 (12) For filing an application to amend a water right claim
23 filed under chapter 90.14 RCW, a fee of fifty dollars is required.

24
25 (13) An application or request for an action as provided for
26 under this section is incomplete unless accompanied by the fee or
27 the minimum fee. If no fee or an amount less than the minimum fee
28 accompanies an application or other request for an action as
29 provided under this section, the department shall return the
30 application or request to the applicant with advice as to the fee
31 that must be remitted with the application or request for it to be

1 accepted for processing. If additional fees are due, the
2 department shall provide timely notification by certified mail
3 with return receipt requested to the applicant. No action may be
4 taken by the department until the fee is paid in full. Failure to
5 remit fees within sixty days of the department's notification is
6 grounds for rejecting the application or request or canceling the
7 permit. Cash shall not be accepted. Fees must be paid by check or
8 money order and are nonrefundable, except as provided under
9 subsection (16) (c) of this section.

10
11 (14) For purposes of calculating fees for groundwater
12 filings, one cubic foot per second shall be regarded as equivalent
13 to four hundred fifty gallons per minute.

14
15 ~~(15) Eighty percent of the fees collected by the department~~
16 ~~under this section shall be deposited in the state general fund.~~
17 ~~Twenty percent of the fees collected by the department under this~~
18 ~~section shall be deposited in the water rights tracking system~~
19 ~~account established in RCW 90.14.240. — Fees collected by the~~
20 department under this section shall be deposited in the water
21 rights processing account established in RCW 90.03.650.

22
23 ~~(16) (a) Except for the fees relating to the inspection of~~
24 ~~hydraulic works and the examination of plans and specifications of~~
25 ~~controlling works provided for in subsections (7) and (8) of this~~
26 ~~section, nothing in this section is intended to grant authority to~~
27 ~~the department to amend the fees in this section by adoption of~~
28 ~~rules or otherwise.~~ In addition to the application, examination and
29 extension fees in this section, the department must recover from
30 applicants the full cost of processing all applications received

1 after or awaiting the initiation of application examination as of
2 the effective date of this 2011 act.

3 (i) For the purpose of assessing the full cost of water right
4 processing under this subsection, recoverable costs include and
5 are limited to the following activities [. . .]

6 (ii) The department must calculate a processing fee for each
7 application based primarily on the department's projected workload
8 and cost to process the applications to a decision and the
9 proportionate quantity of water requested by each applicant. The
10 department may adjust the fee if it appears that an application
11 will require a disproportionately greater amount of time and
12 effort to process due to its complexity. Any application fees
13 that were paid by the applicant under other requirements of this
14 section must be credited against the applicant's share of the cost
15 of processing applications under this subsection.

16 (b) The processing fee must be collected by the department
17 prior to the processing of an application. However, prior to
18 collecting the processing fee under (16)(a) of this section, the
19 department shall provide in writing an initial assessment that
20 estimates the scope of issues likely involved in processing the
21 applications from a water source. The purpose of this initial
22 assessment is to assist the applicants by providing them with
23 information that could support their decision whether to proceed
24 with having the department make a formal determination on their
25 water right application. Such an assessment shall be made with
26 the department's best professional judgment based on the
27 information available to the department at that time. If
28 additional information will need to be collected or studies will
29 need to be conducted to answer the applicable tests for issuing a
30 permit or change approval, the department shall to the extent
31 possible disclose to the applicants the time and cost that the

1 department estimates will be incurred. The department's initial
2 assessment under this subsection does not constitute an appealable
3 action or a final decision by the department. The department may
4 recover the department's cost of performing an initial water right
5 processing assessment from those applicants who elect to proceed
6 with having a formal determination made on their application.

7 (c) An applicant may choose to withdraw their application from
8 further consideration based on the initial assessment provided by
9 the department and no further costs will accrue to the applicant.

10 In the event of voluntary withdrawal of an application, the
11 department shall refund any application fees that accrued to the
12 applicant prior to issuance of the initial assessment under this
13 section.

14 (d) An applicant for municipal supply or community domestic
15 supply may request that processing of an application be deferred
16 due to the applicant not being ready to proceed with development
17 of the proposed water use at that time. A request to defer an
18 application must be accompanied by a statement of the reason that
19 deferral is necessary including the projected timing for
20 development of the water under the application. A deferred
21 application will retain its priority date if an annual fee is paid
22 that is equal to ten percent of the estimated cost to process the
23 application under this section.

24 (e) Revenue collected from these fees must be deposited into
25 the water rights processing account created in RCW 90.03.650. The
26 applicant must transmit the processing fee within sixty days of
27 the written request.

28 (f) If the department does not have sufficient technical staff
29 resources or specialized expertise needed to make its
30 determinations on applications, it may elect to utilize a
31 contractor from its cost reimbursement consultant pool established

1 under RCW 90.03.265. The cost of the consultant must be included
2 in the processing fees.

3 (g) The department must fully recover its costs related to
4 providing water users mitigation credits, issued as a result of
5 water banking under chapters 90.42 and 90.38 RCW.

6 NEW SECTION. **Sec. 705.** A new section is added to chapter
7 90.03 RCW to read as follows:

8 The department may adopt rules to modify and update the fees
9 established in RCW 90.03.470. The fees must be based on the
10 department's actual cost to carry out the actions for which fees
11 are charged in RCW 90.03.470.

12
13 NEW SECTION. **Sec. 706.** A new section is added to chapter
14 90.03 RCW to read as follows:

15 The department must submit a report to the governor and the
16 legislature on the status of water rights processing by November
17 30, 2012 and by November 30 of every even numbered year thereafter
18 through the year 2020. The report shall include the numbers of
19 applications received, decisions rendered, applications pending,
20 decisions appealed, decisions rendered by conservancy boards,
21 decisions made through use of cost reimbursement contractors,
22 decisions made under expedited processing provisions, number of
23 staff assigned to processing water rights, and efficiency measures
24 implemented. The department shall also develop and report on
25 performance measures for water rights processing.

26 **PART 8**

27 **GENERAL PROVISIONS**

1 NEW SECTION. **Sec. 801.** Sections 401, 406, 408, and 604 of
2 this act expire June 30, 2019.

3 NEW SECTION. **Sec. 802.** Sections 402, 408, 409, and 605 of
4 this act take effect June 30, 2019.

5 NEW SECTION. **Sec. 803.** Nothing in this act may be
6 interpreted or administered in a manner that impairs or diminishes
7 a valid water right, including rights established under state law
8 and rights established under federal law.

9 NEW SECTION. **Sec. 804.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

